THE HON'BLE SRI JUSTICE B. SUDERSHAN REDDY

AND

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION No.16053 of 2005

ORDER (Per Hon'ble Sri Ramesh Ranganathan, J)

This writ petition is filed seeking a direction to the respondent to collect tax on the unladen weight of the vehicles belonging to the petitioner driving school, bearing registration Nos.ABC 8374 and AP 03/T 0299.

Facts, to the extent necessary for the purpose of this writ petition, are that the petitioner is a driving school, established with an intention to give training to those who want to learn motor driving. The petitioner purchased goods vehicles bearing registration Nos.ABC 8374 and AP 03/T 0299 to use the same exclusively for the purpose of imparting instructions to its students. It is contended that since the vehicles do not carry any goods and they are used only for imparting training, collection of tax should be on the unladen weight of the vehicles but not on the basis of its gross weight.

Learned Government Pleader for Transport, submits that as per the Certificate of Registration, in Form – 23, the vehicles of the petitioner are classified as goods carriage – HMV vehicles and as such tax is required to be levied on their gross weight. Learned counsel would submit that it is not possible for the authorities to verify each time as to whether the vehicles carry goods or not, and therefore classification of vehicles has necessarily to be made with reference to their registration but not the actual use.

We find substantial force in the submission of the learned Government Pleader. Section 3 of the A.P. Motor Vehicles Taxation Act, which requires tax to be levied on every motor vehicle, used or kept for use, has necessarily to be understood in terms of the registration of the vehicle. Since the petitioner's vehicles are registered as goods vehicle, tax has to be necessarily levied on its gross weight and not on the

basis of its laden or net weight.

The writ petition as filed is wholly misconceived and shall accordingly stand dismissed. No costs.

This order shall not preclude the petitioner, if it so desires, from seeking change in the classification of its vehicles, if it is so entitled in law.

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B. SUDERSHAN REDDY, J

Date: 23.8.2005

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RAMESH RANGANATHAN, J

ASP/MVB